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UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
ERIC AARON LIGHTER,  
Defendant.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Case No. [5:05-cr-00215-EJD](#)

**ORDER DENYING MOTION FOR  
ORDER DIRECTING RE-  
EVAULATION OF DEFENDANT'S  
COMPETENCY**

Re: Dkt. No. 554

Presently before the court is the Government's "Motion for the Court to Order a Reevaluation of Defendant's Competency," which the court understands to instead request a reevaluation of that issue. Dkt. No. 554. The court has read and reviewed the Government's motion, the Defendant's opposition (Dkt. No. 558), and has considered the entirety of the record. For the reasons stated below, the Government's motion will be denied.

First, the provision of some background is necessary to understanding the context in which this motion appears. The undersigned presided over a jury trial of the charges asserted against Defendant. The jury returned a guilty verdict and a sentencing hearing was scheduled. That hearing never occurred, however. Instead, Defendant's legal representative changed twice and Defendant's mental competency was examined on at least three occasions by medical professionals.

Case No.: [5:05-cr-00215-EJD](#)  
**ORDER DENYING MOTION FOR ORDER DIRECTING RE-EVAULATION OF  
DEFENDANT'S COMPETENCY**

1        Eventually, on September 10, 2014, the court held an evidentiary hearing pursuant to 18  
2 U.S.C. § 4241 to determine Defendant's competency to be sentenced. Dr. John Chamberlin, a  
3 private medical professional who assessed Defendant, testified. Counsel also examined the  
4 witness and presented argument. The court found based on the evidence presented that Defendant  
5 was not was not competent; that is, Defendant was suffering from a mental disease or defect, was  
6 unable to understand the nature and consequences of the proceedings, and was unable to assist in  
7 his defense.

8           The court then heard further argument from counsel, including the Government's  
9 contention that a more thorough evaluation would provide additional assistance. Ultimately, the  
10 court committed Defendant to the custody of the Attorney General pursuant to 18 U.S.C. §§  
11 4241(d)(1) and 4241(d)(2) to determine whether it was substantially probable that Defendant  
12 would in the foreseeable future attain the capacity to permit the resumption of sentencing  
13 proceedings. On that order, Defendant was delivered to the Federal Medical Center in Butner,  
14 North Carolina, for evaluation.

15          The court eventually received an Evaluation Report from the Butner Facility, and an  
16 additional competency hearing was held on April 28, 2015. The evaluating psychologist from  
17 Butner testified and counsel was present and participated. At the conclusion of this hearing, the  
18 court once again found Defendant not competent, reaffirming that Defendant was suffering from a  
19 mental disease or defect, was unable to understand the nature and consequences of the  
20 proceedings, and was unable to assist in his defense. Consequently, the prior order remained  
21 undisturbed.

22          The court ordered that Defendant should remain in the custody of the Attorney General for  
23 an evaluation under 18 U.S.C. § 4246(b) to determine whether his release from custody would  
24 create a substantial risk of bodily injury to another person or serious damage to property of  
25 another. The court also scheduled a hearing pursuant to 18 U.S.C. § 4246(c) to determine that  
26 issue. Dkt. No. 509.

27          Case No.: [5:05-cr-00215-EJD](#)  
28 ORDER DENYING MOTION FOR ORDER DIRECTING RE-EVAULATION OF  
DEFENDANT'S COMPETENCY

1       That hearing occurred on January 7, 2016. The court found Defendant was not a threat to  
2 either others or property, and ordered him released.

3       The Government now seeks now an order directing a re-evaluation of Defendant's  
4 competency, perhaps under the impression that a provisional sentence may be ordered pursuant to  
5 18 U.S.C. § 4244.

6       This court has previously recognized that "an incompetent person cannot be sentenced;"  
7 indeed, the criminal sentencing of an incompetent defendant violates due process. See Cooper v.  
8 Oklahoma, 517 U.S. 348, 354 (1996) (citing Medina v. California, 505 U.S. 437, 453 (1992);  
9 Drope v. Missouri, 420 U.S. 162, 171-72 (1975); Pate v. Robinson, 383 U.S. 375, 378 (1966)).  
10      Here, several hearings and reports were ordered at the behest and over the objections of counsel on  
11 both sides of this action in an effort to provide thorough and fair proceedings to all interested  
12 parties. The Government's position that this court should, subsequent to those comprehensive  
13 proceedings, order a re-evaluation on this record is without support. To that end, the Government  
14 relies on a factual analysis that simply does not present in this case. In fact, the court was  
15 informed at the most recent hearing that due to Parkinson's disease, Defendant is unable take the  
16 medication that could restore his competency since doing so would significantly compromise his  
17 physical health and certainly shorten his life. That would not serve the ends of justice.

18      In sum, the court finds no justification for a re-evaluation. Defendant was found guilty of  
19 illegal conduct and spent nearly four years in custody. The court ordered him evaluated and found  
20 him not competent - twice - and the Government appropriately recognized the protocol that must  
21 follow such a finding. Dkt. No. 505 ("If the Court determines that Mr. Lighter is not competent to  
22 be sentenced, then Mr. Lighter is to be returned to FMC Butner for a risk assessment pursuant to  
23 Title 18, United States Code Section 4246. Should it be determined that Mr. Lighter's 'release  
24 would create a substantial risk of bodily injury to another person or serious damage to property of  
25 another,' Mr. Lighter would be hospitalized until his 'mental condition is such that his release, or  
26 his conditional release under a prescribed regimen of medical, psychiatric, or psychological care

27 Case No.: [5:05-cr-00215-EJD](#)  
28 ORDER DENYING MOTION FOR ORDER DIRECTING RE-EVAULATION OF  
DEFENDANT'S COMPETENCY

1 or treatment would not create a substantial risk of bodily injury to another person or serious  
2 damage to property of another' . . . ."). That protocol occurred and concluded, and the  
3 Government has not provided a convincing reason to revisit them anew.

4 The Government's motion is therefore DENIED.  
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6 **IT IS SO ORDERED.**

7 Dated: December 7, 2017



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9 EDWARD J. DAVILA  
United States District Judge  
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United States District Court  
Northern District of California

Case No.: [5:05-cr-00215-EJD](#)  
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